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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,347	06/21/2005	Robert Fernand Bujau	006593-2064	6408
33375	7590	07/27/2009		
THOMPSON HINE LLP Intellectual Property Group P.O. Box 8801 DAYTON, OH 45401-8801			EXAMINER	
			NDUBIZI, CHUKA CLEMENT	
			ART UNIT	PAPER NUMBER
			3743	
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			07/27/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/540,347

**Applicant(s)**

BUJEAU ET AL.

**Examiner**

CHUKA C. NDUBIZU

**Art Unit**

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-109 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,14-100 and 107 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 101, 103 and 104 is/are allowed.
- 6) ☒ Claim(s) 105, 106 and 109 is/are rejected.
- 7) ☐ Claim(s) 108 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment filed on May 12 2009 is hereby acknowledged.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 105,106, 108-109 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 105 recites " ..... the high level such that the low end is closed by contact with the liquid in the regulation chamber so as to prevent outside air from entering the air admission duct and passing to the enclosure via the air inlet for the purpose of humidity control ....". However, the Specification p.33 lines 10-12 discloses that humidity is governed by allowing cold and drier air to enter via the admission duct (i.e. the low end is not closed by contact with the liquid). Claims 106, 108-109 are rejected since they are dependent on claim 105.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 105 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al. (US 6,987,246).

With respect to claim 105, Hansen discloses an oven for cooking food (see fig. 5), the oven comprising: an enclosure for receiving food to be heated and for containing a cooking atmosphere 14A, the enclosure comprising a bottom wall and a top wall, interconnected by at least two vertical side walls, the enclosure being closed by at least one door that is likewise vertical, and communicating with the outside via an exhaust opening for exhausting gas inside the enclosure and at a pressure above atmospheric pressure (see fig. 5); exhaust opening is proximate to condensate tank 104A); and a heater device 22a for heating the cooking atmosphere; a regulation chamber 200, filled

at least in part with a liquid of volume adapted to vary between a high level and a low level, the regulation chamber communicating with the enclosure via an air inlet 208; an air admission duct 202 that extends between a high end and a low end, the high end opening out outside the regulation chamber and the enclosure, and the low end being closed by the liquid in the regulation chamber when the level of the liquid corresponds substantially to its high level (the air admission duct is considered to be "closed" by the chamber in that the chamber is a substantially confined space surrounding the outlet of the air admission duct).

Hansen's air admission duct does not have the low end within the liquid in the regulation chamber when the level of the liquid corresponds substantially to the high level such that the low end is closed by contact with the liquid. However, Applicant discloses in pages 32 and 33 of the Specification that the low end of the air admission duct can be above or below the water level; and the air admission duct serves two functions (1) to enable air to penetrate into the regulator (only when the water lever is below the lower end of the duct) thereby help the regulator govern the humidity in the enclosure and (2) govern the pressure inside the enclosure. Air entering into Hansen's air admission tube 202 is capable of penetrating into the regulator since the water lever is below the low end of the duct (see fig 5) thereby help the regulator govern the humidity in the enclosure (regulator is in communication with enclosure 14A through 212); and also Hansen's air admission duct is capable of governing the pressure inside the enclosure (since 202 is in communication with enclosure 14A through 212). It would be obvious to one of ordinary skill in the art that Hansen's air admission tube would

meet the limitations of the claims since it can perform the functions of the air admission duct as outline in the specification. Thus requiring the air admission duct's low end to be below the water level instead of above it is deemed a matter of design choice which would not affect the function of the device (regulator). Applicant failed to disclose any criticality for having the low end of the air admission duct being below the (high) water level instead of above it.

With regard to claim 109 Hansen also discloses wherein the low end of the air admission duct 202 is above the liquid (fig 5) in the regulation chamber when the level of the liquid is at the lower end, thereby enabling outside air to enter the air admission duct and pass to the enclosure via the air inlet without being blocked by liquid (see fig 5).

Claims 106 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al in view of Violi et al 5,768,982. Hansen teaches the invention as claimed and as discussed above.

However, Hansen does not teach an oven wherein the exhaust opening communicates with a siphon adapted to evacuate liquids and condensates from the enclosure while preventing cold air from rising into the enclosure, and the overflow outlet delivers liquid to the siphon.

Violi discloses an oven wherein the exhaust opening 27 communicates with a siphon 29 adapted to evacuate liquids and condensates from the enclosure while preventing cold air from rising into the enclosure, and the overflow outlet 24 delivers liquid to the siphon (see fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention to modify Hansen's device by providing the discharge pipe with a siphon for the purposes of preventing the entrance of air into the enclosure.

***Allowable Subject Matter***

Claims 1, 4-13, 101, 103-104 are allowed.

Claim 108 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the U.S.C 112 first paragraph rejection is overcome.

***Response to Arguments***

Applicant's arguments filed on May 12 2009 have been fully considered but they are not persuasive. Applicant's argument with regard to claim 105 has been fully considered. Although Hansen does not specifically disclose duct 202 as an air inlet duct, air is capable of coming into the chamber through duct 202 whenever the chamber pressure is slightly lower than atmospheric pressure. Having the water at the high level such that the low end is closed by contact with the liquid in the regulation chamber so as to prevent outside air from entering the air admission duct and passing to the enclosure via the air inlet for the purpose of humidity control is considered new matter. The Specification p.33 lines 10-12 only discloses that humidity is governed by allowing cold and drier air to enter via the admission duct (i.e. the low end is not closed by

contact with the liquid). In Hansen's oven the inlet of air into the chamber helps vary the humidity depending on how dry the outside air is and how much of the outside air gets in.

With regard to Applicant's argument with respect to the rejection of claim 109, Hansen discloses the air admission duct 202 is above the liquid (fig 5) in the regulation chamber when the level of the liquid is at the lower end, thereby enabling outside air to enter the air admission duct and pass to the enclosure via the air inlet without being blocked by liquid (see fig 5).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKA C. NDUBIZU whose telephone number is (571)272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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